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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,465

12/05/2003

Luis E. Luciani JR.

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06/11/2008

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FORT COLLINS, CO 80527-2400

EXAMINER

DINH, KHANH Q

ART UNIT

PAPER NUMBER

2151

NOTIFICATION DATE

DELIVERY MODE

06/11/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
mkraft@hp.com
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Office Action Summary	Application No. 10/728,465	Applicant(s) LUCIANI ET AL.	
	Examiner Khanh Dinh	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 14-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to the Restriction reply and Remarks filed on 2/26/2008.

Applicant cancels claims 7-13. Therefore, claims 1-6 and 14-20 are presented for examination.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a U.S. patent application and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. CIT. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Uogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
3. A timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321(c) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. 1.130(b).
4. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. **Claims 1-3 and 14-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15-17 of application 10/729,676 filed 12/5/2003.**
6. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patent.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6 and 14-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Zhu et al., U.S. Pub. No.20030084169.

As to claim 1, Zhu discloses a method comprising:

logging into a remote computer by way of a management processor to

initiate a remote console session (see abstract, fig.1, [0017] to [0020]); and

switching between a default remote console session and a non-default remote console

session (enabling users to share computer applications during a data conference using default settings, see [0020] to [0027] and [0041] to [0043]).

As to claims 2-4, Zhu discloses that the default remote console session is a hardware-based remote console session and the non-default remote console session is a software-based remote console session, the default remote console session is a software-based remote console session and the non-default remote console session is a hardware-based remote console session and wherein the default remote console session is adjustable between a hardware-based remote console session and a software-based remote console session (see figs.1, 2, [0021] to [0027] and [0031] to [0042]).

As to claims 5-6, Zhu discloses determining availability of the default remote console session; disabling the non-default remote console session and enabling the default remote console session, logging into the management processor comprising an application specific integrated circuit, a microcontroller and a memory for communication between the remote computer and the management processor (see fig.3, [0037] to [0041] and [0043] to [0046]).

As to claim 14, Zhu discloses a computer system comprising a means for providing remote console to the computer system, wherein the means for providing switches to a

default remote console session from a non-default remote console session (see abstract, fig.1, [0017] to [0020] and [0024] to [0027]).

Claims 15-19 are rejected for the same reasons set forth in claims 2-6 respectively.

As to claim 20, Zhu discloses ascertains availability of the default remote console session, ensures the coupling of the computer system and the means for providing, disables the non-default remote console session and enables the default remote console session (see figs.1, 2, [0021] to [0027] and [0031] to [0040]).

Response to Arguments

3. Applicant's arguments filed on 2/26/2008 have been fully considered but they are not persuasive.

- Applicant asserts that Zhu fails to disclose switching between a default remote console session and a non-default remote console session.

Examiner respectfully disagrees. Examiner respectfully point out that Zhu discloses switching between a default remote console session (remote computer) and a non-default remote console session (target computer) [enabling users to share computer applications during a data conference; for example, Zhu discloses that the default settings to be used during a remote access session: the resolution of the remote computer's screen (non default) will be automatically rescued to match the resolution of

the target computer's screen (default option during a remote access) see [0020] to [0027]) and [0041] to [0043]).

Claim 14 is rejected under the same rationale set forth above to claim 1. Claims 2-6 and 15-20 are dependent on claims 1 and 14 respectively. Therefore, they are rejected at least for the same reasons set forth above to claims 1, 14 or for other reasons set forth in the previous office action mailed on 1/3/2008. With all above given reasons, the rejections for claims 1-6 and 14-20 are respectfully maintained.

Conclusion

4. Claims 1-6 and 14-20 are rejected.

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (571) 272-

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3936. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, FOLLANSBEE JOHN, can be reached on (571) 272-3964. The fax phone number for this group is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner for patents

P O Box 1450

Alexandria, VA 22313-1450

/Khanh Dinh/

Primary Examiner, Art Unit 2151